



## U.S. DEPARTMENT of STATE

### Nepal

#### Country Reports on Human Rights Practices - [2003](#)

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Nepal is a constitutional monarchy with a parliamentary form of government. A Maoist insurgency, punctuated by a ceasefire in 2001 and another during the year, has been ongoing since 1996. King Gyanendra assumed the throne in 2001, after the late Crown Prince Dipendra killed King Birendra and nine members of the royal family, including himself. The democratically elected parliament consists of the House of Representatives (lower house) and the National Assembly (upper house). International observers considered the 1999 parliamentary elections to be generally free and fair. In October 2002, the King dismissed the Prime Minister after he recommended the dissolution of parliament and was subsequently unable to hold elections because of the ongoing insurgency. A royally appointed cabinet has subsequently governed the country until elections can be held at an unspecified future time. On June 4, the King appointed Surya Bahadur Thapa Prime Minister after Lokendra Bahadur Chand resigned on May 30. A nationwide state of emergency was in effect from November 2001 to August 2002 after Maoist insurgents broke a 4-month ceasefire with violent attacks. During that time, King Gyanendra, under the Constitution's emergency provisions and on the advice of the Cabinet, suspended several constitutional rights, including freedom of expression, assembly, privacy, and property. The Government and the Maoists declared another ceasefire on January 29 and held three rounds of talks on April 27, May 9, and August 17 to 19. The Maoists unilaterally broke the ceasefire on August 27 and resumed attacks against government, security, and civilian targets. The Constitution provides for an independent judiciary; however, the courts often were inefficient and susceptible to political pressure and corruption.

The Royal Nepal Army (RNA) continued to exercise responsibility for internal security that it assumed from the National Police Force at the beginning of the state of emergency in November 2001. The National Police Force and the paramilitary Armed Police Force (APF) comprise the other elements of the security forces. Local Chief District Officers (CDOs), civil servants in the Home Ministry, have wide discretion in maintaining law and order. While the King as Army Supreme Commander maintained ultimate control of the Royal Nepal Army, there is no evidence that he exercised direct operational control of the Army. Civilian authorities retained effective control of the national police and Armed Police Force. Some members of the security forces committed numerous, serious human rights abuses.

The country is extremely poor, with an annual per capita GDP of approximately \$252 (19,600 Nepali rupees (NRs)) and a 3 percent growth rate during the year. Subsistence agriculture supported more than 80 percent of the country's 23.2 million population. The mixed economy suffered due to slow growth in the world economy and the insurgency, which resulted in a decline in revenues from tourism as well as exports of textiles and carpets.

The Government's human rights record remained poor, and it continued to commit numerous serious abuses. The citizens' right to change the Government was provided for by the Constitution, although the ongoing insurgency prevented the holding of elections in 2002. The security forces used arbitrary and unlawful lethal force and continued to abuse detainees, sometimes using torture as punishment or to extract confessions. The disappearance of persons in custody was a problem. Prison conditions remained poor. Impunity remained a problem, although the military took some initial steps to penalize perpetrators in a few cases. The National Human Rights Commission (NHRC) investigated allegations of human rights violations and, while the Government has begun to pay recommended compensation to some victims, recommended disciplinary action against police seldom occurred. Arbitrary arrest and lengthy pre-trial detention were problems. In the beginning of the state of emergency in November 2001, the Government stated that restrictions were targeted only at Maoist insurgents; however, the security forces were given broad latitude to arrest and detain individuals suspected of Maoist sympathies. After the expiration of the state of emergency in August 2002, Maoist suspects were detained under the 2002 Terrorist and Destructive Activities Act that allowed suspects to be detained without charge for up to 60 days and to be held in preventive detention for up to 90 days. The Act also provides for immunity for members of the security forces or others who undertake "bona fide" actions to control terrorism. During the year, 24 Maoist

suspects were tried under the special anti-terrorism legislation, but none of the trials were concluded by year's end. Judicial susceptibility to political pressure and corruption, and long delays in trial procedures remained problems. Despite limitations on freedom of expression under directives that banned criticism of the King, media criticism of the Government was allowed, so long as it did not aid terrorism. The Government temporarily suspended the right to assembly throughout the Kathmandu Valley from September 1 to 26. The Government restricted certain public celebrations by the Tibetan community. The Constitution imposes restrictions on religious proselytizing. Women, persons with disabilities, and lower castes suffered from widespread discrimination. Violence against women, including in refugee camps, trafficking in women and girls for prostitution, and child labor also remained serious problems. Worker rights continued to be restricted. There have been instances of forced child labor and forced labor in the past, but there were no cases reported during the year.

During the year, including during the ceasefire, Maoists continued their campaign of torturing, killing, bombing, forcibly conscripting children, and committing other gross abuses, targeted at government agents but also including civilians.

During the year, an estimated 1,697 persons were killed, including 142 members of the national police; 122 members of the Royal Nepal Army; 71 members of the Armed Police Force; 1,107 Maoists; and 255 civilians. Since 1996, the insurgency has resulted in the deaths of an estimated 8,296 persons, including 5,551 Maoists; 1,114 civilians; 1,096 members of the national police; 362 members of the Royal Nepal Army; and 173 members of the Armed Police Force.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings by the Government or its agents; however, the security forces continued to commit arbitrary and unlawful killings. The Terrorism and Destructive Activities Act passed by parliament in April provides for immunity for members of the security forces or others who undertake "bona fide" actions to control terrorism. Some observers found the number of prisoners taken under battlefield conditions to be low and concluded that many Maoist fighters apparently were killed rather than taken prisoner. According to statistics from the press and human rights groups, security forces killed 1,114 suspected Maoists during the year and 5,551 have been killed since the beginning of the insurgency.

The RNA was responsible for a number of killings, including deaths in custody in which torture was credibly alleged (see Section 1.c.). During the year, the RNA's human rights investigative cell conducted 12 investigations of alleged serious abuses. In most cases of arbitrary or unlawful killings, the security forces claimed that the victims were Maoists. On August 17, the RNA surrounded a house in Doramba, Ramechhap District in which a Maoist meeting was taking place. One person was shot while trying to escape; several others escaped; and the remaining 20 were taken away in RNA custody. The RNA subsequently shot at least 19 in a jungle area several hours' walk from the original site; another corpse was found in a separate site. The NHRC appointed an independent panel that found evidence that the 19 had been summarily executed. The RNA initially claimed that the patrol had been ambushed, but has since reopened the investigation, which was pending at year's end. On October 7, Maoist suspect Govinda Poudel died at the hospital after having been in RNA custody in Chitwan District for 2 weeks. The Maoists claimed that he was tortured while in custody. On December 14, soldiers arrested teenager Maya Devi Tamang from her home in Panauti, Kavre District, on suspicion of being a Maoist. She was subsequently shot and killed near her home. According to the RNA, she was shot while trying to escape, an account disputed by accounts from the local press, citing eyewitnesses and human rights groups.

The RNA continued to kill civilians. For example, on January 11, members of a joint RNA/APF patrol in Manpur Tapara, Bardia District, killed father and son Bhoj Bahadur Karki and Top Bahadur Karki. A subsequent investigation by the RNA determined that the soldier involved had acted unlawfully. He was sentenced by general court martial to 7 years in prison. On October 13, soldiers opened fire at a secondary school in Mudhbara, Doti District, where Maoists were forcing students and teachers to attend a "cultural program." One Maoist and four students were killed. An RNA investigation exonerated the soldiers involved of wrongdoing, but recommended that the victims' families be paid \$2,700 (NRs 200,000) each. On November 6, a taxi accidentally hit an RNA school bus in Kathmandu. A soldier on the bus shot and killed Rajiv Shrestha, the taxi driver. Following an investigation, the soldier was on trial under the Army Act at year's end. On December 6, soldiers were accused of summarily executing Hari Prasad Bhattarai, Durga Koirala, and Dakmani Koirala in Diktal, Khotang District. The case was under investigation at year's end.

On April 8, police shot and killed Devi Lal Poudel, a student participating in a protest against petroleum price hikes in Rupandehi District, after the protest turned violent. Police killed two civilians, Raj Dev Yadav and Brahma Dev Yadav, while they were on their way home from the market on September 8, according to residents in Bara District. Local police denied that both were innocent civilians, alleging the two were Maoists. On September 11, a judge in Kathmandu District Court ordered the Government to pay \$1,345 (NRs 100,000) to the family of Ganesh Kukmar Rai, who died as a result of maltreatment while in police custody in 1998. On December 12, police shot and killed Suresh Baral in Pokhara, Kaski District, as he approached a checkpoint on motorcycle at night. At year's end, the Government was investigating the incident.

An APF member shot and killed a 14-year-old girl in Chaumala, Kailali in February 2002. According to press reports, the APF member may have had a personal dispute with the girl's family. The APF arrested the member and turned him over to the police for investigation. At year's end, the policeman remained in jail awaiting trial.

There were no further developments in the 2002 killings of Ajabwal Yadav, Sakur Manihar, Krishna Sen (see Section 2.c.) or Ram Hari Khadga.

There were no developments in the following 2001 cases: The deaths of Bhadur Ale Magaar; Rita Banjara; Madan Shrestha; Kul Bahadur Malla; Chandra Jumari B.K.; Tika Kumari Khatri; Prakash Ojha; Chandradip Yadav; Uttimal Yadav; Devkumar Yadav; Bishnu Rai; Jit Bahadur Ghatri (see Section 1.c.), Dil Bahadur; five robbery suspects in a jungle in Bara District; a civilian in the Parsa District; eight Maoists, four NGO employees, and a local civilian.

Maoists were responsible for numerous serious abuses, including during the January to August ceasefire. Maoist rebels clashed with security forces repeatedly during the year and engaged in targeted killing of individual members of the security forces, including some that were unarmed at the time. Police fatalities totaled 142; RNA fatalities totaled 122; and APF fatalities totaled 71 for the year. For example, on January 26, four armed Maoists shot and killed Krishna Mohan Shrestha, Inspector General of Police of the Armed Police Force, his wife, and bodyguard in Kathmandu. On August 5, three soldiers, one policeman, and a civilian were killed when Maoists set off an improvised explosive device in Negi, Panchthar District. On August 28, insurgents shot and killed RNA Colonel Kiran Basnet outside his home in Kathmandu. On September 21, Maoists attacked a police post inside a refugee camp at Khundunabari, Jhapa District and killed one policeman.

Although their activities were focused on the security forces, the Maoists continued to kill and torture civilians and politicians. The insurgents killed 255 civilians during the year. For example, on February 19, armed Maoists stormed onto the property of an elementary school in Baglung District to conduct "training." Two children, ages 7 and 12, were shot and killed in the course of the "training." On June 23, insurgents dragged two civilians from their homes in Sarlahi District, beating one to death and injuring the other severely. On September 3, Maoists killed four civilians, including a female community health volunteer, in Ramechhap District on suspicion of "informing" to the RNA. On September 8, a Maoist bomb detonated in a local government office, killing 10-year-old schoolboy Deepak Gurung. On September 10, Maoists decapitated the former Chairman of a Village Development Committee in Baglung District. On September 18, Maoists kidnapped Guru Prasad Luintel, a teacher and local political activist, from his home in Okhaldhunga. The insurgents reportedly tortured him and paraded him from village to village before killing him on September 24. On November 23, a Maoist bomb killed two boys in Nuwakot District.

#### b. Disappearance

The disappearance of persons while in the custody of the security forces was a problem. In April 2002, parliament passed the Terrorist and Destructive Activities Act, which codified some aspects of the Royal Ordinance declared at the time of the state of emergency in November 2001, such as extended preventive detention. According to the Informal Sector Service Center (INSEC), a local human rights NGO, the whereabouts of 177 persons in government custody since the beginning of the insurgency remained unknown at year's end. For example, according to Amnesty International (AI), on September 11, security forces arrested Om Bahadur Thapa at his shop in Kathmandu on suspicion of being a Maoist and took him to an undisclosed location. On September 23, members of the security forces arrested AI member and lawyer Ujjwal Sukla at his home.

There were no developments in the 2002 disappearances of Som Bahadur Ghale Tamang, General Secretary of the Tamang Indigenous People's Organization, or of Bishnu Prasad.

There were no developments in the 2001 disappearance of Shiva Prasad Sharma.

INSEC reported that Maoists abducted 665 persons during the year and that, at year's end, 384 civilians remained missing since the beginning of the insurgency in 1996. At year's end, six members of the national police, five

members of the APF and four soldiers remained missing after being abducted by Maoists. Police statistics indicate that Maoists have abducted 227 policemen since 1996.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture, and the Civil Code prohibits acts such as beating and mutilation; however, security forces at times used torture and beatings to punish suspects or to extract confessions. The Center for the Victims of Torture (CVICT) reported that blindfolding and beating soles of feet are the most common methods. Detainees were often held incommunicado and unable to contact family members, doctors, or lawyers (see Section 1.d.). The Government sometimes failed to conduct thorough and independent investigations of reports of security force brutality and generally did not take significant disciplinary action against officers involved.

Members of the security forces often were unwilling to investigate and to discipline fellow officers, and persons were afraid to bring cases against the police or Army for fear of reprisals. The Government provided human rights education for the police force, and soldiers received human rights education as part of their regular training.

The Constitution and the Torture Compensation Act provide for compensation for victims of torture. According to CVICT, 57 persons filed for compensation under the act during the year, compared with 7 claims during 2002. CVICT attributed the rise in claims to victims' greater willingness to report such incidents during the relative security of the ceasefire. Of the 57 cases, 7 were awarded compensation during the year.

Human rights groups usually provided alleged examples of torture by government agents. For example, according to a report of the World Organization Against Torture (OMCT), Manoj Lama and Abdesesh Singh, separately suspected of theft on July 30, and Kumar Lama charged with robbery on July 3, were held incommunicado and tortured at the Hanumandhoka District Police Office in Kathmandu. At the same facility, according to AI, Deepak Laya Magar, suspected of attempted murder, and Ram Kumar Karki and Jairam Bhandari, robbery suspects, were subjected to torture. On May 15, after a lawyer working for a local NGO saw them, the prisoners were hospitalized.

According to AI, in April 2002, two RNA officers raped two teenaged girls at an Army barracks. After publication of the AI report recounting the incident, the girls and their families recanted. Human rights groups suspected the girls were pressured to do so. The RNA acquitted one of the officers of rape charges but found him guilty of unlawfully detaining the two girls.

On December 15, two members of the APF reportedly raped a 16-year-old girl in Baijapur, Banke District. The APF dismissed the two policemen and turned the case over to the civil police for criminal action.

There was no compensation or action taken against police in the 2002 torture cases, according to CVICT, of Krishna Lohani B.K and her husband, Ram Bahadur B.K. There were no developments concerning Chetkarna Adhikary's 2002 torture complaint filed with the Alliance for Human Rights and Social Justice.

Local and international human rights groups have documented Maoist violence in areas affected by the "People's War." The Maoists most often have targeted political leaders, local elites, teachers, local-level civil servants, and suspected informers. For example, on September 7, Maoists reportedly tied Gyanendra Khadka, a teacher and journalist in Melamchi, Sindhupalchowk, to a volleyball pole in the school playground and slit his throat in front of his students. On October 25, Maoists tortured to death a Communist Party of Nepal (UML) activist in Makwanpur District.

According to the Government, human rights groups, and the media, Maoists conscripted civilians, including children, into service and have used abducted civilians as human shields during attacks on army and police posts (see Section 5).

There also were cases of intimidation, torture, or other degrading treatment. On April 25, Maoists kidnapped the head of the local Red Cross chapter in Kalikot District. On May 4, Maoists abducted a local resident from Jaljale, Terhathum District, and beat him unconscious. On May 19, Maoists beat unconscious the headmistress of a local school in Masel, Gorkha District, and forced her to attend their program while blindfolded. On September 19, Maoists set fire to an ambulance in Lumle, Kaski District, which was attempting to bring a patient to the hospital during a general strike.

Prison conditions were poor and did not meet international standards. Overcrowding was common in prisons, and authorities sometimes handcuff or fetter detainees. According to the Department of Prisons, there were

approximately 6,000 persons in jail, of which approximately 55 percent were awaiting trial. Women normally were incarcerated separately from men, and in similar conditions.

Due to a lack of adequate juvenile detention facilities, children sometimes were incarcerated with adults, either with an incarcerated parent, or as criminal offenders. In November 2001, the Government began transferring children detained in jail to two residential facilities that provide education in accord with a provision in the 1992 Children's Act. Unlike in previous years, there were no reports of children in jail or custody as suspected or convicted criminals.

The Government permitted local human rights groups and the International Committee of the Red Cross (ICRC) to visit prisons. The ICRC has limited access to detainees in army custody.

#### d. Arbitrary Arrest, Detention, or Exile

Three different laws operate in the area of arrest and detention. The Constitution stipulates that the authorities must arraign or release a suspect within 24 hours of arrest; however, the police at times violated this provision. Under law, the police must obtain warrants for an arrest unless a person is caught in the act of committing a crime. For many offenses, the case must be filed in court within 7 days of arrest. If the court upholds the detention, the law authorizes the police to hold the suspect for 25 days to complete their investigation, with a possible extension of 7 days. However, the police occasionally held prisoners longer. The Supreme Court has, in some cases, ordered the release of detainees held longer than 24 hours without a court appearance. Some foreigners, including refugees, have reported difficulty in obtaining bail.

Detainees not held under special anti-terrorist legislation have the legal right to receive visits by family members, and they are permitted access to lawyers once authorities file charges. In practice the police granted access to prisoners on a basis that varied from prison to prison; however, Maoist suspects often were denied visits from family members and lawyers. There was a system of bail, but bonds were too expensive for most citizens. Due to court backlogs, a slow appeals process, and poor access to legal representation, pre-trial detention often exceeded the period to which persons subsequently were sentenced after a trial and conviction.

Under the Public Security Act, the authorities may detain persons who allegedly threaten domestic security and tranquility, amicable relations with other countries, or relations between citizens of different classes or religions. Persons whom the Government detained under the Act were considered to be in preventive detention and could be held for up to 6 months without being charged with a crime. The authorities may extend periods of detention after submitting written notices to the Home Ministry. The police must notify the district court of the detention within 24 hours, and it may order an additional 6 months of detention before authorities file official charges. Human rights groups allege that the police have used arbitrary arrest and detention during the "People's War" to intimidate communities considered sympathetic to the Maoists.

Under the Terrorism and Destructive Activities Act, suspects must appear before a court within 60 days after their arrest. The suspects may be held in preventive detention for up to 90 days; however, in practice many suspects were held much longer. According to latest police statistics, 18,934 suspected Maoists have been arrested since the beginning of the insurgency. Of that number, 12,447 were released after investigation, 5,847 have been charged and/or prosecuted, and 384 remained under investigation. Government sources estimated that approximately 1,800 Maoist suspects, including 5 Central Committee members, were released without judicial process during the recent ceasefire. During the year, at least 24 cases were sent to Appellate Courts, which have jurisdiction in terrorist cases, for trial. All of the trials were still ongoing at year's end. Figures for the number of persons being detained by the Army on suspicion of being Maoists were unavailable by year's end.

Other laws, including the Public Offenses Act, permit arbitrary detention. This act and its many amendments cover crimes such as disturbing the peace, vandalism, rioting, and fighting. Human rights monitors expressed concern that the act vests too much discretionary power in the CDO, the highest-ranking civil servant in each of the country's 75 districts. The act authorized the CDO to order detentions, to issue search warrants, and to specify fines and other punishments for misdemeanors without judicial review. Few recent instances of the use of the Public Offenses Act have been reported, since it has become more common to arrest persons under the Terrorism and Destructive Activities Act, particularly suspected Maoists. Many citizens involved in public disturbances, rioting and vandalism were summarily arrested, detained for short periods (sometimes just a few hours), and released.

Authorities detained journalists on occasion, on suspicion of having ties to or sympathy for the Maoists (see Section 2.a).

The Constitution prohibits exile, and it was not used.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, lower level courts remained vulnerable to political pressure, and bribery of judges and court staff was endemic. The Supreme Court has the right to review the constitutionality of legislation passed by parliament.

Appellate and district courts have become increasingly independent, although sometimes they remained susceptible to political pressures. In Rolpa, one of the districts most affected by the "People's War," human rights groups have accused the district courts of acting in complicity with CDOs in violating detainees' rights. Human rights groups alleged that arrest without a warrant, prolonged detention without trial, and police torture occurred in Maoist-affected areas.

The judicial system consists of three levels: District Courts, Appellate Courts, and the Supreme Court. The King appoints judges on the recommendation of the Judicial Council, a constitutional body chaired by the Chief Justice. The Council also was responsible for the assignment of judges, disciplinary action, and other administrative matters. Judges decide cases; there is no jury system. A Special Court hears cases related to narcotics trafficking; trafficking in women and girls; crimes against the state; and crimes related to foreign currency. The Appellate Courts hear cases against suspects charged with violations under the Terrorist and Destructive Activities Act.

Delays in the administration of justice were a severe problem. According to the latest statistics, the Supreme Court had a backlog of 16,488 cases; the Appellate Courts had 15,138; and district courts had 32,537. Under the state of emergency, the right to constitutional remedy (except habeas corpus) was suspended, and the Supreme Court temporarily suspended accepting new civil rights cases. By year's end, at least 24 suspected Maoists arrested under special anti-terrorism laws were being tried in the Appellate Courts; however, none of these cases had concluded by year's end.

The Constitution provides for the right to counsel, equal protection under the law, protection from double jeopardy, protection from retroactive application of the law, and public trials, except in some security and customs cases. All lower court decisions, including acquittals, were subject to appeal. The Supreme Court was the court of last resort, but the King may grant pardons. The King also can suspend, commute, or remit any sentence.

Although prisoners have a constitutional right to legal representation and a court appointed lawyer, a government lawyer or access to private attorneys was provided only on request. Consequently, those persons unaware of their rights may be deprived of legal representation. Suspects detained under the Terrorism and Destructive Activities Act often were denied access to both attorneys and family members.

Unlike in previous years, there were been no instances of penalization of attorneys involved in the defense of human rights. According to INSEC, seven attorneys were arrested for suspected Maoism since the beginning of the state of emergency in November 2001.

Military courts adjudicate cases concerning military personnel, who are immune from prosecution in civilian courts. Military courts do not try civilians for crimes involving the military services.

The authorities may prosecute terrorism or treason cases under the Treason Act. Specially constituted tribunals hear these trials in closed sessions. No such trials have occurred during the past 6 years.

In districts where Maoists have gained effective control, the insurgents have set up "people's courts." Although these courts generally decide civil cases, in 2001 eight policemen who surrendered in Dailekh were reportedly found guilty of crimes against the people by a hastily constituted "people's court" and were summarily executed.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such practices and, although constrained by the demands of fighting the Maoist insurgency, the Government generally observed these prohibitions. Search warrants are required before searches and seizures may be carried out, except in cases involving suspected security and narcotics violations. The law empowers the police to issue warrants for searches and seizures in criminal cases upon receipt of information

about criminal activities. Within 24 hours of their issuance, warrants in misdemeanor cases must be approved by the CDO. Judges must approve them in felony cases. Under the Terrorism and Destructive Activities Act, the security forces may conduct searches as long as they inform the subject of the search in advance. Vehicle and body searches by security personnel have been common at roadblocks in many areas of the country.

Government provisions permitted discrimination in employment on the basis of political opinion; however, there were no reports of such discrimination.

There were a few reports during the year of government military commanders in some conflict areas or of Maoist commanders blockading shipments of food and medicine, but the Army had ceased the practice by year's end, according to NGO reports. In the case of the Army, the Government maintained that such incidents had occurred at the direction of individual commanders and was not a governmental policy.

## Section 2 Respect For Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution specifies that all citizens shall have freedom of thought and expression and that the Government may not censor any news item or other reading material; however, the Government imposed restrictions on these rights. The Constitution prohibits speech and writing that would threaten the sovereignty and integrity of the Kingdom; disturb the harmonious relations among persons of different castes or communities; promote sedition, defamation, contempt of court, or crime; or contradict decent public behavior or morality.

The Press and Publications Act provides for the licensing of publications and the granting of credentials to journalists. The Act also includes penalties for violating these requirements. In addition, the Act prohibits publication of material that, among other things, promotes disrespect toward the King or the royal family; that undermines security, peace, order, the dignity of the King, or the integrity or sovereignty of the Kingdom; that creates animosity among persons of different castes and religions; or that adversely affects the good conduct or morality of the public. The Act also provides a basis for banning foreign publications; however, foreign publications were widely available. None were banned or censored during the year.

There were hundreds of independent vernacular and English-language newspapers available, representing various political points of view. The Government owned Gorkhapatra, a Nepali-language daily, and The Rising Nepal, the third-largest English-language daily. Government newspapers reflected government policy. Some editors and writers at both private newspapers and at government-owned newspapers practiced self-censorship. Ruling political parties have influenced the editorial policy of the government newspapers to their advantage.

A number of journalists have encountered problems during the year. On August 28, unidentified individuals abducted from his office Ramhari Chaulagain, a reporter for the weekly publication, Sanghu. On October 24, the security forces released him. On September 9, the security forces arrested Subhashankar Kandel, executive editor of the Maoist-affiliated Janadharan. He was released at the end of the month.

Police briefly arrested 31 journalists on September 11 who were violating the temporary ban on assembly by protesting the Maoist killing of journalist Gyanendra Khadga on September 7. On September 13, police arrested Sitaram Baral, associate editor of Jana Aastha. He claimed to have been beaten during his detention and was hospitalized after his release on September 17, according to the Committee to Protect Journalists. Unknown persons abducted Columnist/writer Nawin Magar Pun from his home in Kirtipur on September 21. He was released on November 22. Some journalists have suffered human rights abuses. On September 28, security forces shot and killed Binod Chaudhury, a correspondent for the Maoist publication Janadesh, in Kailali District. According to the security forces, Chaudhury fired on them first, but Janadesh contended that he was unarmed. Security forces reportedly arrested Bhaikaji Ghimire of Samadrishti magazine on December 2. His whereabouts remained unknown at year's end. Journalist Ram Krishna Adhikari, of the weekly Sanghu and the radio Times FM, was arrested on December 10 in Kathmandu during a meeting of the Human Rights Organization of Nepal (HURON). He was released on December 20. According to the Federation of Nepalese Journalists, 97 journalists were arrested during the year. Three, including Ghimire, remained missing at year's end.

In 2001, the Government announced that restrictions under the state of emergency were intended to target the Maoists and not the general population; however, journalists and editors of both mainstream and Maoist-oriented publications were detained during the emergency. In November 2002, journalists and human rights activists filed a petition in court claiming compensation for illegal detention and severe torture during the state of emergency. By year's end, there were no further developments concerning this petition.

In 2001, the Supreme Court issued a writ of habeas corpus releasing Krishna Sen from jail (see Section 1.a.). He had been arrested in 1999 in connection with the publication of an interview with a Maoist leader. In May 2002, local newspaper Jana Astha reported that Sen, editor of the daily Janadisha, was re-arrested and killed in custody. The Government denied the claim. No investigation into Krishna's death was initiated by year's end (see Section 1.a.).

The Broadcast Act allows private television and FM radio broadcasts, but implementation of the Act has been slow. The Government owned one television station, and controlled one radio station that broadcasts both AM and FM signals. Radio reaches the greatest number of persons and has the largest influence. Government-owned Radio Nepal broadcasts throughout the country through a series of repeater stations. With privatization of a number of radio bands, there was a marked increase in the range of programming options available. Privately owned FM stations can broadcast their own independently collected news but also must broadcast Radio Nepal news at least once daily. The Government did not restrict access to foreign radio broadcasts, private cable networks, or to the purchase of television satellite dishes. Indian, Chinese, and Pakistani broadcast television also was readily available in many parts of the country.

There are four private television stations in the country; a fifth station has been granted a license and is scheduled to begin service by mid-2004. They mainly provided entertainment programming, but commentary critical of government policies occasionally occurred during publicly broadcast discussion programs. Throughout the country, local entrepreneurs also received international stations via satellite for viewing in local bars, and resold the signal to local residents. Television time on the government-owned television station also was leased to private producers.

By year's end, the Government had issued private broadcasting licenses to 56 FM stations. Private stations must broadcast the government station's news program but also were permitted to rebroadcast news from abroad. Private radio stations, like print media, practiced self-censorship.

The Government licensed 15 companies for Internet and e-mail services and did not censor or block access to Internet sites.

There were no government efforts to curtail academic freedom during the year. According to INSEC, security forces have killed 52 teachers since 1996.

The Maoists did not tolerate freedom of expression and tightly restricted the print and broadcast media under their control. On January 10 and again later in the month, Rabin Prasad Thapalia, a contributor to the weekly newspaper Ruprekha, reportedly received death threats because of items he had written in September 2002 regarding widows of government security officers killed by the Maoists. He published an apology, but did not respond to an ultimatum to critique the article "word for word." On July 16, Maoists threatened the life of Kantipur journalist Bed Prakash Timilsena in Achham District for reporting "without permission." On September 7, Maoists killed Gyanendra Khadga, a correspondent for the state-owned media as well as a teacher, in Sindhupalchowk District (see Section 1.c.). Maoists confined to his village Deepak Bahadur Thapa, an Accham-based correspondent for the national newspaper Nepal Samacharpatra for several months at the end of 2002 and early in the year. According to his editor, the Maoists accused Thapa of writing against their movement and threatened him, saying that he would be in danger if he attempted to leave the village.

Maoist groups extorted money from private schools and teachers and sometimes inflicted punishment on school officials. Threats and intimidation from Maoist-affiliated All Nepal National Independent Student Union (Revolutionary) (ANNISU-R) succeeded in closing down more than 200 private schools, primarily in areas most heavily affected by Maoist activities. Two private schools in Kathmandu remain closed, one permanently. The ANNISU-R demanded, often violently, the halving of tuition, curriculum changes, and the banning of the singing of the national anthem.

The Maoists have killed 59 teachers since the beginning of the insurgency in 1996, including 9 during the ceasefire, and have destroyed 26 school buildings. Teachers in Maoist-affected areas reported regular threats and extortion demands.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association; however, the Government restricted these rights on vague grounds, such as undermining the sovereignty and integrity of the State or disturbing law and order. Freedom of assembly was one of the civil rights suspended under the state of emergency. The Government



required that organizers apply for permits for public rallies and demonstrations. Except for the duration of the state of emergency, large public demonstrations were common. The Government temporarily suspended the right to assembly in Kathmandu Valley from September 1 to 26. During the year, some protests turned violent, and police sometimes used baton charges to break up demonstrations. Local authorities in Kathmandu halted a number of public celebrations by the Tibetan community throughout the year that included veneration of the Dalai Lama as a political, as well as a religious leader.

### c. Freedom of Religion

The Constitution provides for freedom of religion and permits the practice of all religions; however, proselytizing was prohibited and punishable with fines or imprisonment, and members of minority religions occasionally complained of police harassment. Some Christian groups were concerned that the ban on proselytizing limited the expression of non-Hindu religious belief. The Constitution describes the country as a Hindu Kingdom, although it does not establish Hinduism as the state religion.

The Press and Publications Act prohibits the publication of materials that create animosity among persons of different castes or religions.

In January 2002, the Government ordered Muslim religious schools to register with the local District Administration Officers. The schools had to supply information about their funding sources in order to continue operation. Some Muslim leaders criticized the move as discriminatory. The registration requirement has not been enforced.

A conviction for conversion or proselytizing can result in fines or imprisonment or, in the case of foreigners, expulsion from the country. Arrests or detentions for proselytizing were rare, and there have been few incidents of punishment or investigation in connection with conversion or proselytizing during the last few years. However, the Government on occasion investigated reports of proselytizing. Nongovernmental groups or individuals were free to file charges of proselytizing against individuals or organizations. On February 14, three Christian men were arrested in Pyuthan District and charged with proselytizing. A case was filed against them in Pyuthan District Court on February 28. They were released and charges dropped on September 11.

In March, police prohibited Tibetans celebrating the New Year in Kathmandu from displaying pictures of the Dalai Lama. Previously, a picture of the Dalai Lama had been carried around the stupa as part of religious ceremonies (see Section 2.b.).

Government policy did not support religious extremism, although some political figures have made public statements critical of Christian missionary activities.

The caste system strongly influenced society, even though it was prohibited by the Constitution. Caste discrimination was widely practiced at Hindu temples.

For a more detailed discussion, see the [2003 International Religious Freedom Report](http://www.state.gov/g/drl/rls/hrrpt/2003/27949pf.htm).

### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice. However, for security reasons, the Government restricted travel by foreigners, including Tibetan residents, to some areas near the Chinese border. On January 18, the Government lifted restrictions on women's travel to the Gulf States to work as domestic servants. The Government allowed citizens to emigrate and those abroad to return, and was not known to revoke citizenship for political reasons.

Internal displacement because of the Maoist insurgency continued to be a problem, with estimates of the number displaced ranging widely. International organizations estimated that between 100,000 and 150,000 citizens may have been internally displaced; other sources estimated that 100,000 might be an upper number. The variation existed because there were no internally displaced persons (IDP) camps; those displaced usually stayed with relatives and did not register with the Government or usually seek assistance.

The country is not a party to U.N. Refugee Conventions and the law does not include provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. On August 22, the Government formulated an official policy toward refugees that pledged to uphold the principle of non-refoulement and without hindrance to allow U.N. High Commissioner for

Refugees (UNHCR) "to verify and establish the status of people seeking asylum." The Government did provide asylum for refugees and asylum seekers and generally has cooperated with the office of the UNHCR and other humanitarian organizations in assisting them. The UNHCR maintained an office in Kathmandu. Since 1959, the Government has accepted as residents approximately 20,000 Tibetan refugees, many of whom still reside in the country. Since 1991 it also has provided asylum to approximately 101,000 persons who claim Bhutanese citizenship. The great majority of these refugees live in UNHCR administered camps in the eastern part of the country. An additional 15,000 Bhutanese refugees reside outside the camps in either the country or India. The total represents approximately one-sixth of Bhutan's estimated pre-1991 population. Since the flight of the Karmapa Lama from Tibet in 2000, the Government has disallowed UNHCR access to the Nepal-China border to monitor the treatment of Tibetan refugees. In September 2001, the Government authorized UNHCR to travel to the headquarters of a border district, but not the border itself, to consult with local officials.

The People's Republic of China and the Government tightened control of movement across their border in 1986, but neither side has consistently enforced those restrictions. Police and customs officials occasionally harassed Tibetan asylum seekers who fled China. According to the UNHCR, police conduct in this regard has improved since 1999, although border police sometimes extort money from Tibetans in exchange for passage. There were credible reports that Tibetan asylum seekers were sometimes handed back to Chinese authorities after crossing the border.

On April 15, the Government arrested 21 Tibetans, including 11 minors, on immigration charges. The three youngest children were released in UNHCR custody. On May 31, the Government handed over the 18 remaining Tibetans to Chinese authorities. The Government has since characterized the deportations as an aberration that does not reflect official policy. On November 24, the Government released all remaining Tibetan asylum seekers held in detention after a private benefactor paid their immigration fines.

The UNHCR monitored the condition of Bhutanese refugees and provided for their basic needs. The Government accepted the refugee presence as temporary on humanitarian grounds. The camps were administered by UNHCR; the World Food Program (WFP) provides sustenance and the Government made a contribution to the WFP earmarked for the refugees. In 2002, there were reports by refugee women and children that some of the Bhutanese refugee workers at the camps had committed sexual assault. The Government responded by providing more police protection to the camp and UNHCR conducted an investigation that resulted in the removal of certain local personnel and increased protection measures for refugee women and children (see Section 5). On September 21, Maoists attacked a police post in one of the camps, killing one policeman. In response, the Government withdrew its permanent police presence from all 7 camps. The Government officially restricted refugee freedom of movement and work, but did not strictly enforce its policies. Local authorities have attempted to restrict some of the limited economic activity in the camps permitted by the central Government. Violence sometimes has broken out between camp residents and the surrounding local population. The UNHCR and other donors and relief organizations have defused tensions through an assistance plan for refugee-affected areas aimed at improving conditions in communities adjacent to the camps.

In 1994 the Government and the Government of Bhutan formed a joint committee and began bilateral talks to resolve the refugee problem. In 2000, they agreed on preparations for verification at the camps. Verification interviews at the first refugee camp commenced in March 2001 and concluded in December 2001. During the year, the Nepal-Bhutan Joint Verification Committee announced the results of the first verification exercise. The results were controversial, and many refugees staged peaceful protests in and near the camps. Ninety-four percent of the verified refugees filed appeals against their verification status. None of the remaining 6 camps has yet been verified. After a December 22 briefing for Khudunabari Camp refugees by the Bhutanese Verification Team resulted in disorder and throwing of stones, repatriation and further verification were indefinitely delayed.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The 1992 Constitution provides citizens with the right to change their government peacefully. Although now constrained by the inability to hold elections due to the insurgency, citizens have exercised this right in practice through free and fair elections held on the basis of universal suffrage. Citizens, through their elected representatives, also have the right to amend the Constitution with the exception of certain basic principles that they may not change--sovereignty vested in the people, the multiparty system, fundamental rights, and the constitutional monarchy. Executive power is vested in the King and the Council of Ministers.

Parliamentary elections are scheduled at least every 5 years. Midterm elections may be called if the ruling party loses its majority, loses a vote of no confidence, or calls for elections. On May 22, 2002, Prime Minister Sher Bahadur Deuba asked King Gyanendra to dissolve parliament and schedule mid-term elections for November 13, 2002. On October 3, 2002, the Prime Minister asked the King to delay polls until November because of Maoist

threats to disrupt the elections with violence. On October 4, 2002, the King dismissed Deuba's caretaker government for its failure to hold elections within the constitutionally mandated period; temporarily assumed executive powers; postponed elections indefinitely; and invited all mainstream political parties to nominate members of a new caretaker government. On October 11, 2002, the King appointed Lokendra Bahadur Chand as Prime Minister of a caretaker government. After Chand resigned on May 30, the King appointed Surya Bahadur Thapa Prime Minister on June 4. By year's end, no date had been set for national or local elections.

Under the Constitution all citizens 18 and over may vote. The House of Representatives, or lower house, may send legislation directly to the King by majority vote. The National Assembly, or upper house, may amend or reject lower house legislation, but the lower house can overrule its objections. The upper house also may introduce legislation and send it to the lower house for consideration.

The King exercised certain powers with the advice and consent of the Council of Ministers and the Prime Minister. The King has exclusive authority to enact, amend, and repeal laws relating to succession to the throne. The King's income and property are tax-exempt and inviolable, and no question may be raised in any court about any act performed by the King. The Constitution permits the King, acting on advice of the Council of Ministers, to exercise emergency powers in the event of war, external aggression, armed revolt, or extreme economic depression. In such an emergency, the King, as advised by the civilian government, may suspend without judicial review many basic freedoms, including the freedoms of expression, assembly, and movement and residence, freedom from censorship, and freedom from preventive detention. However, he may not suspend habeas corpus or the right to form associations. The King's declaration of a state of emergency must be approved after 3 months by a two-thirds majority of the lower house of the parliament. If the lower house is not in session, the upper house exercises this power. A state of emergency may be maintained for up to 3 months without legislative approval and for up to 6 months, renewable only once for an additional 6 months, if the legislature grants approval.

The Constitution bars the registration and participation in elections of any political party that is based on religion, community, caste, tribe, or region, or that does not operate openly and democratically. In the 1999 election, there were sporadic incidents of violence that mainly occurred between supporters of rival political parties. Maoist efforts to disrupt the 1999 elections by intimidating voters and candidates had some effect. The elections generally were held throughout the country according to schedule. International observers considered the elections to be generally free and fair.

There were no specific laws that restrict women, indigenous people, or minorities from participating in the Government or in political parties. Tradition limits the roles of women and some castes in the political process. However, the Constitution requires that women constitute at least 5 percent of each party's candidates for the House of Representatives. The law also requires that at least 20 percent of all village and municipal level seats be reserved for female candidates. The 1999 elections resulted in an increase from 7 to 12 in the number of women in the 205-seat lower house and from 5 to 9 in the 60-seat upper house. There was one woman in the interim Cabinet appointed by the King in October 2002, and one woman in the interim Cabinet appointed in June.

No specific laws prevent minorities from voting or restrict them from participating in the Government and political parties on the same basis as other citizens. There were no special provisions to allocate a set number or percentage of political party positions or parliamentary seats for any minority group. Members of certain castes traditionally have held more power than others.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated, investigating and publishing their findings on human rights cases without government restriction. Unlike during the state of emergency, there were no reports that the Government detained human rights activists suspected of Maoist affiliation during the year. There were approximately 10 domestic human rights NGOs. These included the Human Rights Organization of Nepal (HURON), INSEC, the International Institute for Human Rights, Environment, and Development (INHURED), and the Human Rights and Peace Society (HURPES). The Nepal Law Society also monitored human rights abuses and a number of NGOs focused on specific areas such as torture, child labor, women's rights, or ethnic minorities.

According to INSEC, security forces arrested 16 human rights activists during the state of emergency in 2001-02.

The insurgency has caused a number of NGOs to reduce their activities substantially. Maoists prevented journalists and human rights activists who traveled to Rolpa to inspect the area on their own. In addition, Maoists have killed and abducted NGO workers. On September 13, Maoists attacked lawyer Durga Prasad Majagaiya at

his home in Tulsipur, Dang District. He died of his injuries on September 26. There were reports during the year that insurgents stole emergency food supplies from NGO programs targeting vulnerable populations. In 2002, Maoists also targeted aircraft attempting to make humanitarian deliveries of foodstuffs.

The Government did not refuse visas to international NGO human rights monitors. AI conducted an official visit to the country from July 2 to 7. Apart from some areas along the country's border with China, access was not otherwise restricted. An organization monitoring Tibetan refugee flows has been denied access to these border areas.

In 2000, the Government formed the NHRC, a government-appointed commission with a mandate to investigate human rights violations. The Commission included members from all major political parties and operated independently; however, resource constraints and insufficient manpower restricted the number of cases the commission can bring to court. Once the NHRC completes an investigation and makes a recommendation, the Government has 3 months to respond. Since its establishment, the Commission has received 1,865 complaints of human rights violations, investigated 314, and recommended compensation in 26 cases. Some cases involved the disappearance of detainees, illegal detention, and arrest of acquitted persons, but many other cases were relatively minor.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution specifies that the Government shall not discriminate against citizens on grounds of race, sex, caste, or ideology; however, a caste system operated in many areas of daily life and throughout the country. Discrimination against lower castes, women, and persons with disabilities remained common, especially in rural areas.

#### Women

Violence against women was a serious problem that received limited public attention. In April 2002, parliament passed the Domestic Violence Control Bill that did not receive royal approval before parliament was dissolved; if it is to become law, it or another version will have to be re-introduced in another parliamentary session. There was a general unwillingness among citizens, and particularly among government authorities, to recognize violence against women as a problem. In a 1998 survey conducted by local NGO SAATHI, 42 percent of the respondents said that in their experience medical practitioners were uncooperative or negligent in cases of violence against women and girls. This unwillingness to recognize violence against women and girls as unacceptable in daily life was seen not just in the medical profession, but among the police and politicians as well.

The police department has 18 women's cells with female officers who received special training in handling victims of domestic violence. The police also have sent out directives instructing all officers to treat domestic violence as a criminal offense that should be prosecuted. However, according to a police official, this type of directive was difficult to enforce because of entrenched discriminatory attitudes. Even though the police may make an arrest, often neither the victim nor the Government pursued further prosecution.

Rape and incest also were problems, particularly in rural areas. Laws against rape provide for prison sentences of 6 to 10 years for the rape of a woman less than 14 years of age and 3 to 5 years for the rape of a woman above the age of 14. The law prescribes imprisonment for 1 year or a fine for the rape of a prostitute. The law prohibits spousal rape. A survey conducted by SAATHI found that 39 percent of rape victims who reported the crime to police were under the age of 19. Of those victims who reported the crime to the authorities, 25 percent said the perpetrator was convicted and jailed.

The dowry tradition is strong. The killing of brides because of defaults on or inadequacy of dowry payments was rare. More common was the physical abuse of wives by the husband and the husband's family to obtain additional dowry or to force the woman to leave to enable the man to remarry.

Folk beliefs about witchcraft generally involved rural elderly women, sometimes widows. Shamans or other local authority figures sometimes publicly beat and physically abuse suspected witches as part of an exorcism ceremony. In May, Raheli Pariyar died in Rampur, Ramechhap District, as a result of an "exorcism" performed by local shamans. In September 2001, the Supreme Court issued a show cause notice to the Government for its failure to enact a law specifically to punish perpetrators of violence in witchcraft cases.

At least 10 NGOs in Kathmandu worked on the problem of violence against women and on women's issues in general. SAATHI's assistance program includes a women's shelter and a suicide intervention center. The shelter

provided housing, medical attention, counseling, and legal advocacy for the victims of violence.

Trafficking in women remained a serious problem in several of the country's poorest areas, and large numbers of women still were forced to work against their will as prostitutes in other countries (see Section 6.f.).

In September, the Human Rights Watch (HRW) examined the response of UNHCR and the Government to rape, domestic violence, sexual and physical assault, and trafficking of girls and women from refugee camps. Their report also stated that the country's system of refugee registration discriminated against women by distributing rations through male heads of households. Further, the report noted that 35 refugee women and girls were missing from the camps and may be trafficking victims at year's end.

Although the Constitution provides protections for women, including equal pay for equal work, the Government has not taken significant action to implement those provisions, even in many state industries. Women faced systematic discrimination, particularly in rural areas, where religious and cultural tradition, lack of education, and ignorance of the law remained severe impediments to their exercise of basic rights such as the right to vote or to hold property in their own names. Inheritance laws were revised in 2002 so that unmarried, widowed, or divorced women can inherit parental property. The Citizenship Law discriminates against foreign spouses of female citizens, and denies citizenship to the children of female citizens married to foreign spouses, even if those children are born in the country. Many other discriminatory laws still remain. According to legal experts, there were more than 50 laws that discriminate against women. For example, the law grants women the right to divorce, but on narrower grounds than those applicable to men. The law on property rights also favors men in its provisions for inheritance, land tenancy, and the division of family property.

According to the 2001 census, the most recent statistics available, the female literacy rate was 43 percent, compared with 65 percent for men. NGOs focused on integrating women into active civil society and the economy. Hundreds of NGOs are registered to work on women's issues in the areas of literacy, small business, skills transfer, and prevention of trafficking in women and girls. There also were a growing number of women's advocacy groups. Most political parties have women's groups that advocate for women's rights and bring women's issues before the party leadership.

#### Children

Education is not compulsory. Government policy was to provide free primary education for all children between the ages of 6 and 12 years, but the quality of education was sorely inadequate, many families cannot afford school supplies and clothing, and schools do not exist in all areas. Schools charge fees for higher education. Approximately 60 percent of the children who worked also attended school. However, approximately 70 to 75 percent of boys who work go to school, compared with only 50 to 60 percent of the girls who work. Human rights groups reported that girls attend secondary schools at a rate half that of boys. On April 5, the Department of Education issued a report finding that one-quarter of elementary school-aged girls remain deprived of basic education. Basic health care was provided free to children and adults, but government clinics were poorly equipped and few in number, and serious deficiencies remained.

Forced prostitution and trafficking in young girls remained serious problems (see Section 6.f.).

Societal attitudes view a female child as a commodity to be bartered off in marriage, or as a burden. Some persons considered marrying a girl before menarche an honorable, sacred act that increases one's chances of a better afterlife. As a result, although the law prohibits marriage for girls before the age of 18, child brides were common. According to the Ministry of Health, girls' average age of marriage was 16 years of age. The age difference in marriage often was cited as one cause of domestic violence.

Unlike in previous years, there were no reports of children in jail or custody as suspected or convicted criminals, although in 2002 there were reports of children held under anti-terrorism laws as suspected Maoists.

There have been numerous reports that Maoists recruited teenagers to serve as porters, runners, cooks, and armed cadre. During the ceasefire, the Maoists reportedly abducted hundreds of rural teens and children, requiring them to attend training and indoctrination programs and/or join their ranks.

#### Persons with Disabilities

The Disabled Persons Protection and Welfare Act and additional 1994 rules mandate accessibility to buildings,

transportation, employment, education, and other state services. However, despite government funding for special education programs, the Government did not implement effectively or enforce laws regarding persons with disabilities. A number of NGOs working with persons with disabilities received significant funding from the Government, but persons with physical or mental disabilities relied almost exclusively on family members to assist them.

Persons with disabilities faced widespread societal discrimination. There was discrimination against persons with disabilities in employment, education, and in the provision of other state services. Families often were stigmatized by and ashamed of family members with disabilities. Economic integration was further hampered by the general view that persons with disabilities were unproductive. Due to the inadequacy of facilities, the authorities sometimes placed prisoners with mental disabilities in jails under inhumane conditions. A 2001 report authored jointly by UNICEF and the National Planning Commission estimated that there were approximately 400,000 persons with disabilities in country.

#### National/Racial/Ethnic Minorities

In the country there are more than 75 ethnic groups that speak 50 different languages. The Constitution provides that each community shall have the right "to preserve and promote its language, script, and culture." The Constitution further specifies that each community has the right to operate schools at the primary level in its native language.

In remote areas, school lessons and national radio broadcasts often were in the local language. Near municipalities, education was almost exclusively in Nepali, the constitutionally mandated official language.

Discrimination against lower castes was especially common in the rural areas in the western part of the country, even though the Government has outlawed the public shunning of "untouchables," and made an effort to protect the rights of the disadvantaged castes. Economic, social, and educational advancement tended to be a function of historical patterns, geographic location, and caste. Better education and higher levels of prosperity, especially in the Kathmandu Valley, were slowly reducing caste distinctions and increasing opportunities for lower socioeconomic groups. Better educated, urban-oriented castes continued to dominate politics and senior administrative and military positions, and to control a disproportionate share of natural resources. One member of the Cabinet was from an ethnic minority community.

Caste-based discrimination, including barring access to temples, is illegal. Members of the lower castes have entered many temples, including Pashupatinath, the national site most sacred to Hindus, since a 2001 government emphasis on the illegality of discrimination. Progress in reducing discrimination was more successful in urban areas.

#### Section 6 Worker Rights

##### a. The Right of Association

The Constitution provides for the freedom to establish and to join unions and associations. It permitted the restriction of unions only in cases of subversion, sedition, or similar conditions. Trade unions developed administrative structures to organize workers, to bargain collectively, and to conduct worker education programs. The three largest trade unions were affiliated with political parties.

Union participation in the formal sector accounted for approximately 10 to 12 percent of the formal work force. The Labor Act of 1992 and the Trade Union Act of 1992 formulated enabling regulations; however, the Government has not yet fully implemented these acts. The Trade Union Act defines procedures for establishing trade unions, associations, and federations. It also protects unions and officials from lawsuits arising from actions taken in the discharge of union duties, including collective bargaining, and prohibits employers from discriminating against trade union members or organizers. There were few reports of discrimination against union members.

The Government did not restrict unions from joining international labor bodies. Several trade federations and union organizations maintained a variety of international affiliations.

##### b. The Right to Organize and Bargain Collectively

The Labor Act provides for collective bargaining, although the organizational structures to implement the act's

provisions have not been established. Collective bargaining agreements covered an estimated 10 percent of wage earners in the organized sector. However, in general, labor remained widely unable to use collective bargaining effectively due to legal obstacles to striking, inexperience, and employer lack of need to bargain.

The law permits strikes, except by employees in essential services. The law empowers the Government to halt a strike or to suspend a union's activities if the union disturbs the peace or if it adversely affected the nation's economic interests. Under the Labor Act, 60 percent of a union's membership must vote in favor of a strike in a secret ballot for the strike to be legal. In August, employees at a hotel in Kathmandu successfully negotiated their demands after staging a 3-day strike.

There were no export processing zones.

#### c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor, including by children; however, there were reports that such practices occurred (see Sections 6.d. and 6.f.). The Department of Labor enforced laws against forced labor in the small formal sector, but remained unable to enforce the law outside that sector.

Historically, a system of bonded agricultural laborers, known as the Kamaiyas, existed in areas of the western Terai region. In 2000, the Government made bonded labor illegal and released the Kamaiya bonded agricultural workers from their debts. At that time, the number of released Kamaiya households was said to be 15,152, but subsequent surveys, including one completed in February 2002, have raised the estimate to 29,800 households. In 2002, the Kamaiya Prohibition Act became law, which codified the emancipation of bonded laborers, penalized employers engaged in Kamaiya labor practices, and established governmental Kamaiya relief funds.

Enforcement of the Act by the Government was uneven and social integration of the Kamaiyas was difficult. According to ILO, 10,336 Kamaiyas have received land, and only 4,000 have received timber to build houses. The Government has set up temporary camps for Kamaiyas still awaiting settlement, but few have been accommodated. Arrangements for distribution of food under a food-for-work program continued. A 2001 International Labor Organization (ILO) Rapid Assessment estimated that 17,000 child laborers were working as bonded laborers in the remnants of the Kamaiya system.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution stipulates that children shall not be employed in factories, mines, or similar hazardous work and limits children between the ages of 14 and 16 years to a 36-hour workweek. The law established a minimum age for employment of minors at 16 years in industry and 14 years in agriculture and mandated acceptable working conditions for children.

The Child Labor Act established specific penalties for those who unlawfully employ children. The legislation applies only to formal sectors of the economy, such as tourism, cigarette or carpet factories, and mines, but not to informal sectors such as portering or rag-picking, or the 80 percent of the population engaged in subsistence agriculture. Children under the age of 14 years and children between the ages of 14 and 16 years may work, but no more than 6 hours a day and 6 days a week. Employers must maintain records of all 14-to 16-year-old laborers. However, the necessary implementing regulations have not yet been passed. The ministries have stated that the continued delay was a result of the need to rework the Act to comply with ILO Convention 182 on the Worst Forms of Child Labor.

Resources devoted to enforcement were limited, and children worked in many sectors of the economy. NGOs estimated that 2.6 million children--most of them girls--were economically active. Of that number, 1.7 million children worked full time. The agricultural sector accounted for most child laborers--an estimated 95 percent. Roughly 60 percent of children who work also attend school. Approximately 70 to 75 percent of boys who work go to school, compared with 50 to 60 percent of girls who work. ILO 2001 Rapid Assessments estimated that 55,000 child laborers worked as domestics in urban areas, 42,000 as porters, 4,000 as rag pickers, and 17,000 as bonded laborers. Others are economically active in a few small-scale and cottage industries. During the year, an ILO program assisted 8,535 landless Kamaiyas children who worked as bonded laborers.

There were reports that the Maoists use children, including girls, as soldiers, shields, runners, and messengers.

The Ministry of Labor's enforcement record was mixed. In 2002 according to the Ministry, it conducted 369 inspections of carpet factories in the Kathmandu Valley to ensure that no child labor was present. The Ministry

reported that 63 children under the age of 14 were found working in the factories, but no convictions or arrests were made under the Act. Government monitoring of other industries and of industries outside the Kathmandu Valley was sporadic. The Government also conducted public awareness programs to raise public sensitivity to the problem of child labor.

The private sector has made its own efforts to eradicate child labor, especially in the carpet industry. In 1999, the carpet manufacturers association pledged publicly to end child labor in the industry by 2005. The Rugmark Foundation certifies carpets made without child labor; over half of all carpet factories participate in this or a similar certification system. As a result of this initiative, and of consumer pressure, Rugmark estimated that children constitute only 2 percent of the work force in the export-oriented carpet industry. However, children's rights activists stated that children remained a part of the work force, in the smaller factories and family weaving units. During the year, Rugmark conducted 2,910 inspections at factories, identifying and removing 127 children from factories. Out of that number, 54 children agreed to receive care at Rugmark rehabilitation centers. Rugmark issued 74 warning letters to carpet factories where children were found employed.

#### e. Acceptable Conditions of Work

In April the Government raised the minimum monthly wage for unskilled labor to \$25 (NRs 1894), which was not sufficient to provide a decent standard of living for a worker and family. The law also defined monthly minimum wages for semi-skilled labor at approximately \$26 (NRs 1944), skilled labor at \$28 (NRs 2,054), and highly skilled labor at \$30 (NRs 2,244). The minimum wage for children ages 14 to 16 was set at \$21 (NRs 1,558). Additional allowances for food and other benefits total \$7 (NRs 500) per month for adult labor, and \$5 (NRs 360) per month for children aged 14-16. Wages in the unorganized service sector and in agriculture often were as much as 50 percent lower. The Labor Act calls for a 48-hour workweek, with 1 day off per week, and limits overtime to 20 hours per week.

Health and safety standards and other benefits such as a provident fund and maternity benefits also were established in the Act. Implementation of the new Labor Act has been slow, as the Government has not created the necessary regulatory or administrative structures to enforce its provisions. Workers did not have the right to remove themselves from dangerous work situations without fear of losing their jobs. Although the law authorizes labor officers to order employers to rectify unsafe conditions, enforcement of safety standards remained minimal.

#### f. Trafficking in Persons

The law prohibits trafficking in persons and prescribes imprisonment of up to 20 years for infractions; however, trafficking in women and girls remained a serious problem. Border guards and immigration officials commonly accepted bribes from traffickers. Young women were by far the most common targets; trafficking of boys was reported in rare instances. While the vast majority of trafficking was of women and girls for sexual exploitation, women and girls sometimes were trafficked for domestic service, manual or semi-skilled bonded labor, or other purposes. The country was a primary source country for the South Asia region; most women and girls trafficked from the country went to India.

There is legislation to protect women from coercive trafficking. A ban on female domestic labor leaving the country to work in Saudi Arabia and other countries in the Gulf was lifted on January 18 for the organized sector. Women who have proof of external employment with an organization of 10 or more employees may travel to the Gulf. Government officials suspected that organized crime groups and "marriage brokers" were the primary perpetrators of trafficking in the country. The traffickers usually were from the country, but have links to brothels in India. NGOs' unverified estimates were that approximately 50 percent of the victims were lured to India with the promise of good jobs and marriage, a family member sold 40 percent, and 10 percent were kidnapped. NGOs have found that once prevention programs were initiated in a district, the traffickers move to other areas. Youth displaced from homes as a result of the insurgency were especially vulnerable to being trafficked.

Enforcement of anti-trafficking statutes remained sporadic. In 2002, a Documentation and Information Center was established within the Ministry to coordinate trafficking initiatives. The Human Trafficking Control Act prohibits selling persons in the country or abroad and provides for penalties of up to 20 years' imprisonment for traffickers. However, this legislation does not criminalize the separation of minors from their legal guardians with the intent of trafficking them. As a result, no crime occurs until the victim and perpetrators are outside the jurisdiction. There were many social and legal obstacles to successful prosecution, and convictions were rare. In June, the Special Court convicted the leader of a gang involved in the selling of nearly 100 girls to brothels in India to 75 years of imprisonment. Six of his accomplices received lesser sentences ranging from 36 to 12 years of imprisonment. Border guards commonly accepted bribes to allow contraband and trafficked girls in or out of the country.



According to the 2002-03 annual report of the Attorney General's Office, 66 new cases were filed in district attorneys' offices across the country. Pending from the previous years were 76 for a total of 142 cases. Of that number, 30 resulted in partial or full conviction and 69 in acquittal, while 43 are still pending. A 2001 survey conducted of 3 jails in the capital by the Human Rights and Environment Forum found 180 convicted or alleged traffickers in jail. Those convicted were serving sentences of up to 20 years.

Local NGOs combating trafficking estimated that from 5,000 to 12,000 Nepali women and girls were lured or abducted annually into India and subsequently forced into prostitution; however, these numbers were not consistent and NGOs were seeking better estimates. Citizens reportedly also have been trafficked to Hong Kong, Saudi Arabia, and other countries in the Middle East. In some cases, parents or relatives sell women and young girls into sexual slavery. Hundreds of girls and women returned voluntarily, were rescued, or were repatriated to the country annually after having worked as commercial sex workers in India. Most were destitute and, according to some estimates, 50 percent were HIV-positive when they returned. The age of those being trafficked appeared to decrease over the year. Girls as young as 9 years of age have been trafficked.

A 2001 study by the ILO International Program on the Elimination of Child Labor found that 30 percent of sex workers in Kathmandu were below 18 years of age. Another study by a foreign labor department states that 5,000 to 7,000 sex workers were between the ages of 10 and 18 years old. Since 1996, active special police units staffed by female officers in 17 districts and the capital have dealt with crimes against women and children.

While the Government lacked both the resources and institutional capability to address effectively its trafficking problem, the Government has established a National Task Force at the Ministry of Women, Children and Social Welfare (MOWCSW) with personnel assigned to coordinate the response. There were programs in place to train the police and the MOWCSW worked closely with local NGOs to rehabilitate and otherwise assist victims. However, the Government lacked the fiscal means to provide adequate training and resources to police, and the courts were overburdened and susceptible to corruption. Government welfare agencies generally were incapable of delivering effective public outreach programs or assistance to trafficking victims. As a result, anti-trafficking efforts primarily have been the domain of NGOs and bilateral donors. While the Government has promulgated a National Plan of Action to combat trafficking, its implementation has been haphazard.

The Government provided limited funding to NGOs to provide assistance to victims with rehabilitation, medical care, and legal services. The Ministry of Labor and Social Welfare sponsored job and skill training programs in several poor districts known for sending commercial sex workers to India. The Government protected the rights of victims and did not detain, jail, or prosecute them for violations of other laws.

The Government, together with NGOs and international organizations, has implemented local, regional, and national public awareness campaigns about trafficking in persons. Cultural attitudes toward returned victims of trafficking were often negative and the government response sometimes reflected that bias. There were more than 56 NGOs combating trafficking, several of which have rehabilitation and skills training programs for trafficking victims. Two representative NGOs were members of the MOWCSW's National Task Force Against Trafficking. With the Government's endorsement, many NGOs have public information and outreach campaigns in rural areas. These groups commonly used leaflets, comic books, films, speaker programs, and skits to convey anti-trafficking messages and education. Some organizations involved in the rehabilitation of trafficking victims state that their members have been threatened and that their offices have been vandalized because of their activities.

The International Agency Coordinating Group, comprised of NGOs, bilateral donor agencies, and government agencies, met regularly to share information, plan common approaches, and avoid duplication of work.